

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF BOONVILLE,) CAUSE NO. 43477
INDIANA, FOR AUTHORITY TO ISSUE)
BONDS AND FOR APPROVAL OF A NEW) APPROVED: DEC 10 2008
SCHEDULE OF RATES AND CHARGES)

BY THE COMMISSION:

Gregory D. Server, Commissioner
Aaron A. Schmoll, Administrative Law Judge

On April 4, 2008, the City of Boonville, Indiana ("Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition to issue bonds and for approval of a new schedule of rates and charges.

Pursuant to notice given as required by law, a Prehearing Conference was held on May 7, 2008, at 9:30 a.m. in Room 224 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC") attended the Prehearing Conference. No members of the general public attended. On May 14, 2008, the Commission issued a Prehearing Conference Order.

Petitioner prefiled its testimony and exhibits on June 2, 2008, consisting of: (1) Testimony of Brian A. Bullock, P.E. of Midwestern Engineers, Inc.; (2) Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2004 Report"), prepared by Midwestern Engineers, Inc.; (3) Addendum No. 1 to the Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2005 Addendum"), prepared by Midwestern Engineers, Inc.; (4) Addendum No. 2 to the Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2008 Addendum"), prepared by Midwestern Engineers, Inc.; (5) Testimony of John M. Seever, C.P.A. of H. J. Umbaugh & Associates; (6) Boonville, Indiana Municipal Water Utility Accounting Report on Proposed Change in Rates and Charges and Bond Issue ("Accounting Report"), prepared by H. J. Umbaugh & Associates; (7) Testimony of Shawn R. Wright, Project Manager for Veolia Water North America for the City of Boonville's water and wastewater utility; (8) Ordinance No. 2008-03, an Ordinance of the City of Boonville authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks ("Bond Ordinance"); and (9) Proposed Ordinance No. 2008-___, an Ordinance of the City of Boonville establishing rates and charges for the use and services rendered by the waterworks of the City ("Rate Ordinance").

On June 13, 2008, Petitioner moved the Commission for leave to late file a fully executed and formally adopted copy of the Rate Ordinance. On June 27, 2008, the Commission granted Petitioner's Motion.

The OUCC prefled its testimony and exhibits on July 25, 2008, consisting of: (1) Testimony of Richard J. Corey; (2) Testimony of Harold L. Rees; and (3) Testimony of Edward R. Kaufman.

On July 29, 2008, the OUCC filed its work papers. On August 5, 2008, Petitioner moved the Commission to late file the Rebuttal Testimony of Brian A. Bullock, P.E. On August 7, 2008, the OUCC filed its Notice of Filing Additional Public Comment with Request for a Public Field Hearing to be Conducted in Boonville, Indiana.

On August 15, 2008, Attorney John Burley Scales filed an Appearance with the Commission for "West Boon Property Association c/o Don Hendrickson," its Petition to Intervene, and the testimony of Don Hendrickson. On August 20, 2008, Petitioner filed its Response in Opposition to Petition to Intervene and Objection to Admission of Offered Testimony ("Response in Opposition").

Pursuant to notice duly published as required by law, a public hearing was held in this Cause on August 20, 2008, at 9:30 a.m. in Judicial Courtroom 224 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. Petitioner, the OUCC, and Donald G. Hendrickson attended the evidentiary hearing with counsel. No other members of the general public appeared.

At the evidentiary hearing, the Commission heard argument on the Petition to Intervene and Petitioner's Response in Opposition. Over Petitioner's objections, the Commission granted Mr. Hendrickson permission to intervene in this cause on his own behalf only, but not on behalf of the West Boon Property Association or other utility users.

Petitioner then presented its case-in-chief, offering into evidence the following testimony and exhibits:

Petitioner's Exhibit 1, which consisted of Prefiled Direct Testimony of John M. Seever, C.P.A., and the attached Accounting Report on Proposed Change in Rates and Charges and Bond Issue;

Petitioner's Exhibit 2, which consisted of Testimony of Brian A. Bullock, P.E., of Midwestern Engineers, Inc., and the following attached exhibits: Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2004 Report"), prepared by Midwestern Engineers, Inc.; Addendum No. 1 to the Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2005 Addendum"), prepared by Midwestern Engineers, Inc.; and Addendum No. 2 to the Preliminary Engineering Report for Water System Improvements for the City of Boonville, Warrick County, Indiana ("2008 Addendum");

Petitioner's Exhibit 3, which consisted of Prefiled Direct Testimony of Shawn R. Wright and the following attached exhibits: Ordinance No. 2008-03, an Ordinance of the City of Boonville authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks ("Bond

Ordinance"); Proposed Ordinance No. 2008-____, an Ordinance of the City of Boonville establishing rates and charges for the use and services rendered by the waterworks of the City ("Rate Ordinance"); and a copy of the fully executed and formally adopted Rate Ordinance entitled Ordinance No. 2008-6; and

Petitioner's Exhibit 5, a copy of the Petition filed April 4, 2008, requesting a change in rates and authority to issue bonds.

The Commission admitted the Petitioner's testimony and exhibits into evidence without objection.

During cross-examination of Petitioner's accounting witness, John M. Seever, the OUCC offered into evidence Public's Exhibit CX-1, a copy of The City of Boonville's Responses to the Indiana Office of Utility Consumer Counselor's Fifth [Set] of Data Requests. The OUCC's cross-examination exhibit, which was admitted into evidence without objection, established that if the OUCC agreed to a cost estimate of \$25,000 for a leak detection program for Boonville, the Petitioner would agree to a five-year amortization arrangement, increasing Petitioner's annual revenue requirement by \$5,000. The discovery responses in Public's cross-examination Exhibit CX-1 also established that if the OUCC agreed to the five-year amortization arrangement and the Commission approved the additional \$5,000 allowance, the Petitioner would agree to complete the leak detection analysis project and submit a completion report to the Commission and the OUCC before the end of 2009. On cross-examination by the OUCC, Mr. Seever also confirmed that the Petitioner accepted the OUCC's adjustments to Petitioner's proposed revenue requirement (subject to approval of the five-year amortization of leak detection program costs) and accepted the OUCC's other recommendations.

For its case-in-chief, the OUCC offered into evidence without objection the following testimony and exhibits:

Public's Exhibit No. 1, which consisted of the Testimony of Richard J. Corey and attached exhibits;

Public's Exhibit No. 2, which consisted of the Testimony of Harold L. Rees and attached exhibits;

Public's Exhibit No. 3, which consisted of the Testimony of Edward R. Kaufman and ERK Attachment 1, which included copies of public comments received by the OUCC and submitted to the Commission for its consideration in this proceeding; and

Public's Exhibit No. 4, which consisted of the Notice of Filing Additional Public Comment with Request for a Public Field Hearing to be Conducted in Boonville, Indiana, together with attached correspondence concerning Mr. Hendrickson's opposition to the proposed capital improvement projects, the proposed financing and Petitioner's proposed rate increase.

The Commission admitted the OUCC's testimony and exhibits into evidence without objection.

The Intervenor offered into evidence, over Petitioner's objection, the testimony of Donald G. Hendrickson, which the Presiding Officers admitted as Intervenor's Exhibit 1. Petitioner declined to cross-examine Mr. Hendrickson.

Finally, on rebuttal, the Petitioner offered into evidence Petitioner's Exhibit 4, which contained rebuttal testimony of Brian A. Bullock, P.E., regarding the projected cost of the leak detection program recommended by OUCC witness Rees and additional revenue that would be required to cover the cost of a leak detection program. Mr. Bullock's rebuttal testimony was admitted into evidence without objection.

On cross-examination by the OUCC, Mr. Bullock confirmed the accuracy of Petitioner's responses to the OUCC's Fifth [Set] of Data Requests (Public's Exhibit No. CX-1). He also confirmed that the Petitioner accepted and agreed to meet OUCC witness Harold L. Rees' recommendations concerning utility operations and future reporting requirements (Public's Exhibit No. 2, pp. 20-22).

At the conclusion of the evidence, the OUCC raised the issue of the public field hearing request in the August 5, 2008 letter the OUCC received from West Boon Property Association President, Donald G. Hendrickson. (See letter attached to the OUCC's Notice of Filing Additional Public Comment, Public's Exhibit No. 4). The Commission ruled that no field hearing would be held in this case. The field hearing request in Mr. Hendrickson's letter was one of several alternative requests. Instead of conducting a field hearing, the Commission granted Mr. Hendrickson's Petition to Intervene, allowed Mr. Hendrickson to testify during the hearing, and permitted counsel for Mr. Hendrickson to participate in the evidentiary hearing, thereby allowing the Intervenor a full and fair opportunity to offer evidence in support of his position and to challenge evidence presented by other parties. The Commission notes that it also reviewed and considered public comments attached to the testimony of OUCC witness Kaufman (Public's Exhibit No. 3, ERK Attachment No. 1). Like the Intervenor's testimony, the public comments offered into evidence at the hearing opposed the requested rate increase, the proposed bond issuance and/or the underlying proposed capital improvement projects.

At the conclusion of the hearing, the Commission requested that Petitioner submit as a late-filed exhibit a report regarding the suitability of an abandoned well field as a source of additional water. That exhibit, identified at the Commission's request as Petitioner's Exhibit LF-6, was late-filed on August 25, 2008, and made a part of the evidentiary record of this proceeding. Petitioner's Exhibit LF-6 consisted of logs related to testing of the old well field and Mr. Bullock's opinion as a Professional Engineer that the old well field was not suitable for Petitioner's future use.

The Commission has carefully considered the evidence presented and based upon applicable law and the evidence herein and being duly advised, the Commission now finds that:

1. **Statutory Notice and Commission Jurisdiction.** Due, legal and timely notice of the public hearings conducted by the Commission in this Cause was given and published as required by law. Petitioner is a "municipally-owned utility" within the Public Service Commission Act, as amended, and the Commission has jurisdiction over the parties and the subject matter of this Cause, to the extent provided by the laws of the State of Indiana.

2. **Petitioner's Characteristics.** Petitioner is a municipal corporation which owns and operates a municipal water system and collects rates and charges for the use of and service rendered by the water system pursuant to Ind. Code § 8-1.5. Petitioner's present schedule of rates and charges was approved by the Commission on January 31, 2006, in Cause No. 42875.

Petitioner presently provides water service to the City of Boonville and its surrounding areas. Petitioner's water utility currently serves approximately 3,700 customers. The main components of the existing system include: four raw water wells, one 2.16 million gallon per day (MGD) water treatment plant with a 1.6 million gallon clear well, three water storage tanks with a combined total of 1.5 million gallon capacity, two finished water booster stations, one raw water booster station with a 575,000 gallon raw water clear well, and about fifty miles of mostly 2-inch through 10-inch water mains. The mean average daily demand for the system over the last five years is 1.1 MGD, with a mean peak daily demand of 1.59 MGD. (Petitioner's Exhibits 1, 2 and 3; Public's Exhibit No. 2). As part of its last rate case in Cause No. 42875, Petitioner has upgraded the transmission line from its existing well field to the treatment plant by installing an 18-inch main, which increased the well field capacity to 2.09 MGD with its largest well out of service.¹

3. **Relief Requested.** Petitioner requested authority to issue waterworks revenue bonds in the aggregate principal amount of \$8,140,000 to finance the capital improvement and tank painting projects described below, and to increase its rates and charges in two phases to recover the statutory revenue requirements. Petitioner requests authority to increase its rates and charges by 49.93% for Phase I (after it adjusted its last rate block to cover the base cost of serving high volume users, resulting in an approximate 130% increase in Petitioner's last rate block in Phase I) commencing upon the date of this order, subject to approval of a proposed tariff evidencing said rates. Petitioner also requests authority to further increase its rates and charges by another 15.11% of its current rates in Phase II (for an additional increase of 10.08% over the Phase I rates and charges) commencing upon completion of the project and certification by affidavit that the project is in service and used and useful. (Petitioner's Exhibits 1 and 2).

4. **Petitioner's Proposed Capital Improvement and Tank Painting Projects and Proposed Bond Issue.** Petitioner's proposed project consists of the following improvements to its municipal water utility system: (1) a new, larger water treatment plant; (2) well field improvements; (3) new clear wells at the new treatment plant; (4) water storage tank painting; (5) replacement of the control system; and (6) a connection for wholesale water sales to Yankeetown, as detailed below:

Project Descriptions

Estimated Costs

Construction Costs

Well field improvements (new)	\$ 550,000
Treatment plant improvements (new)	5,680,000

¹ Petitioner's engineering witness Mr. Bullock stated during the hearing that well capacity is calculated by removing the largest well from the calculation, which provides a safety margin if a well suddenly quit producing water. However, Mr. Bullock appears to have miscalculated Petitioner's wellfield capacity, with the largest well out of service, as being 2.88 MGD, which includes all wells. Pet. Ex. 2, BAB-4, line 20.

Painting elevated storage tank	250,000
Installation of water main (Yankeetown)	<u>451,000</u>
Total Construction Costs:	<u>\$6,931,000</u>

Non-Construction Costs

Engineering	\$539,000
Inspection	185,000
Bond costs	380,000
Land for new well field	72,000
Soil boring and contingencies	<u>33,000</u>
Total Non-Construction Costs:	<u>\$1,209,000</u>

Total Estimated Project Costs:	<u>\$8,140,000</u>
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Petitioner proposes to finance the aforementioned projects with waterworks revenue bonds ("2008 Bonds") in an aggregate amount of \$8,140,000, issued through the Indiana State Revolving Loan Fund Program ("SRF").

The Intervenor questioned the necessity of the proposed capital improvement projects based on limited historic population growth in the area. OUCC witness Rees testified that the Petitioner's projections regarding future customer growth were optimistic based solely on historic trends, but deferred to the Petitioner's estimates on projected future growth.

Commission Discussion and Findings on this Issue. Based on the record evidence presented in this matter the Commission has concerns with Petitioner's proposed projects. Petitioner's current treatment plant, while "approaching its useful life," (Pet. Ex. 2, Attachment BAB-1 at 14) still provides 2.16 MGD of treatment capacity, and according to Mr. Wright's testimony, is only operating at 55 percent capacity. Pet. Ex. 3, p. 2, line 14. Moreover, while a portion of the treatment plant was constructed in 1976, improvements were made in 1991. Further, while Petitioner stated that the existing treatment plant is in need of "major repairs," consisting of "all six (6) filters need[ing] complete rehabilitations or replacements; and the building needs substantial improvements to meet new standards," Petitioner did not include the estimated costs of those repairs in its evidence presented in this Cause, or explain what "new standards" need to be met. However, the fact that the filter media of four of the filters was replaced in 1995 is proof that filter media replacement is a viable option that should be, but was not, addressed by Petitioner in its case-in-chief. That the plant may be nearing the end of its useful life, as determined by a depreciation table, does not necessarily mean that this plant is in fact no longer used and useful.

Given the lack of evidence with respect to the condition of the existing treatment plant, it appears that the main impetus for Petitioner's proposed well field expansion and new treatment plant is to provide capacity for the projected growth included in Petitioner's preliminary engineering study. We agree with Public's witness Rees that the historical data tends to discount the projected growth estimates. Petitioner's responses to the Public's data requests show that it

only added 25 customers over the last five years. Moreover, average daily demands have declined since Petitioner's rate case in Cause No. 38821, approved on December 28, 1989. In that case, water usage ranged from 1.3 to 1.6 MGD on average. *In re Petition of the City of Boonville*, Cause No. 38821, 1989 Ind. PUC LEXIS 451, at *3. Currently, average daily demand is 1.1 MGD as testified to by Petitioner's engineering witness, Mr. Bullock. (See Petitioner's Exhibit 2, page BAB-7) This is also supported by Petitioner's Exhibit 2, Attachment BAB-1, page 12, which shows average daily production decreasing from 2000 to 2003. Finally, Petitioner's assertion that customer growth is projected to more than triple the current customer base by 2024 seems overly optimistic.²

Moreover, Petitioner appears to have excess capacity to serve future growth in the near future. For instance, with the upgrade of the transmission main from the existing well field to its treatment plant, Petitioner can supply 2.09 MGD from its existing well field, with its largest well out of service, and as previously noted, Petitioner can treat 2.16 MGD at its existing treatment plant. Compared with its mean peak daily demand of 1.59 MGD for its water supply, Petitioner has excess water supply of over 500,000 gallons per day, and Petitioner's existing treatment plant has excess capacity of more than 570,000 gallons per day. The Commission also notes that Petitioner currently experiences approximately 30% water loss after adjustments for system flushing, or more than 348,000 gallons per day, which, if corrected, will add to capacity. Despite this existing capacity, Petitioner's proposes to add to its well field and build a new treatment plant, which will increase capacity to 4.32 MGD, which would exceed current peak demand by 2.73 MGD. *See* Pet. Ex. 2, Attachment BAB-1, p. 14.

Under Indiana Code Section 8-1.5-3-8, the Commission must determine that a municipality's proposed charges will be "nondiscriminatory, reasonable, and just." Commission approval is also necessary for a municipality to issue bonds or other long-term debt. Ind. Code § 8-1.5-2-19. Based on the evidence presented, the result of approving Petitioner's proposed projects would be to burden current ratepayers with the cost of providing excess capacity for the possible benefit of future ratepayers.

With the amount of excess water supply and water treatment capacity enjoyed by Petitioner's current system, the Commission finds that Petitioner's request for authority to implement its proposed projects is premature and that Petitioner has not met its burden of proof on showing that the proposed projects are necessary at this time, and is hereby denied. Accordingly, Petitioner's authority to issue bonds for those projects is also denied.

The Commission does approve Petitioner's proposed plan to paint its elevated storage tank. Based on our finding below with respect to Extensions and Replacements, Petitioner will be able to fully fund the painting of its elevated storage tank within two years from the date this Order is issued the Depreciation Expense of nearly \$184,000 each year, while the proposed tank

² Even if Petitioner added 500 customers, which based on historical trends would take 20 years, Petitioner's proposed formula for projecting usage shows that water usage would only increase by 210,000 gallons (500 customers times 300 gallons/customer times 1.4 peaking factor). More than 285,000 gallons of capacity would remain available for expanded use based on its mean peak daily demand.

painting cost is \$250,000. However, if Petitioner desires to fund the tank painting with bonds, Petitioner can request to do so in the subdocket discussed in Para. 11 of this Order.

Finally, because Petitioner's cost estimates for the proposed Yankeetown interconnection were based on connecting to the proposed water treatment plant, the evidence of record is insufficient for the Commission to approve this project. If Petitioner desires to move forward with the Yankeetown interconnection and file revised cost estimates base on connecting to the current treatment plant, Petitioner can submit this evidence as part of the subdocket discussed in Para. 11 of this Order.

5. **Test Period.** The test period selected for determining Petitioner's revenues and expenses reasonably incurred in providing water utility service to its customers included the twelve months ended December 31, 2007. With adjustments for changes that are fixed, known and measurable, we find this test period is sufficiently representative of Petitioner's normal operations to provide reliable data for ratemaking purposes.

6. **Operating Revenue.** The Petitioner's *pro forma* operating revenue at rates and charges in effect during the test year is \$1,381,361.³

7. **Petitioner's Revenue Requirement.** Ind. Code § 8-1.5-3-8 establishes the revenue requirement elements which this Commission must apply in determining just and reasonable rates for a municipally-owned utility, such as Petitioner. Petitioner's revenue requirements are reflected in Petitioner's Exhibit 1 and Public's Exhibit No. 1.

Based on the evidence, including the Petitioner's acceptance of the OUCC's adjustments to revenue requirements during the OUCC's cross-examination of Mr. Seever, we now make the following findings on each revenue requirement element.

- A. **Operation and Maintenance Expenses.** Petitioner's annual revenue requirement for operation and maintenance expenses is \$1,037,369 for Phase I. (See Public's Exhibit 1) The difference between the approved annual revenue requirement of \$30,000 for tank painting and Petitioner's original \$33,333 request is based on the OUCC's experience in other cases, as explained by OUCC witness Harold L. Rees (Public's Exhibit No. 2, p. 21). That experience caused the OUCC to decrease Petitioner's projected future tank painting costs from \$200,000 to \$175,000 per tank. The \$30,000 annual allowance for tank painting should permit the Petitioner to recover the cost of painting its elevated storage tanks once every 15 years. (See also Petitioner's Exhibit 1 and Public's Exhibit No. 1, Schedule 6, Adjustment 2) We therefore find that such operation and maintenance expenses are reasonable and supported by the evidence.
- B. **Debt Service.** Petitioner's annual debt service requirement for Phase I is based on Petitioner's current outstanding debt service requirement of \$331,905. (See Petitioner's Exhibit 1, page 15 of Petitioner's accounting report). This amount

³ The Commission deducted the proposed Yankeetown revenues of \$28,744, which results in proforma test year operating revenue of \$1,381,361.

represents Petitioner's annual revenue requirement for debt service. Therefore, we find this amount to be reasonable and supported by the evidence.

- C. Debt Service Reserve. Petitioner's annual debt service reserve is \$68,055 for Phase I. (See Petitioner's Exhibit 1, page 15 of Petitioner's accounting report). This amount represents Petitioner's annual revenue requirement for debt service reserve. Therefore, we find this amount to be reasonable and supported by the evidence.
- D. Extensions and Replacements (Depreciation). Petitioner used its allowance for depreciation as its revenue requirement for extensions and replacements (See Petitioner's Exhibit 1, page 14 of its accounting report). As a municipally-owned utility, Petitioner can either request depreciation or is allowed adequate money for making extensions and replacements to the extent not provided for through depreciation. Petitioner has included within its requested increase the sum of \$183,766. Depreciation is a non cash item and has little if any relevance to a determination of Petitioner's reasonable revenue required for capital expenditures such as extensions and replacements. The use of depreciation as a measure of such needs can lead to either an excessive or inadequate recovery of funds for extensions, replacements and additions. *In re Petition of the Town of Lapel*, Cause No. 36817, 1982 Ind. PUC LEXIS 332, at *17 (June 22, 1982). As covered in the OUCC's cross-examination of Petitioner's witnesses, Petitioner agreed to complete a leak detection study if it could increase operations and maintenance expense by \$5,000. Petitioner estimated the cost of the study to be \$25,000. The Commission believes that this study is the type that is reasonably covered by Petitioner's proposed depreciation allowance. Therefore, we find that \$183,766 in depreciation expense is reasonable and supported by the evidence.
- E. Utility Receipts Tax. Petitioner's annual revenue requirement for utility receipts taxes is \$23,378 in Phase I.⁴ We find this amount to be reasonable and supported by the evidence.
- F. Interest Income. Petitioner's revenue requirement should be offset by the amount of Petitioner's interest income in the amount of \$2,342 in Phase I. (See Public's Exhibit No. 1, Schedule 5). We find this amount to be reasonable and supported by the evidence.
- G. Other Revenue. Petitioner's revenue requirement should be offset by the amount of Petitioner's other annual income, totaling \$24,299 per year in Phase I. (See Public's Exhibit No. 1, Schedule 1). We find this amount to be reasonable and supported by the evidence.
- H. Annual Revenue Requirement. Based upon our findings above, we find that Petitioner's annual net revenue requirement is \$1,617,424 in Phase I, as detailed below:

⁴ Based on the Commission's findings, Petitioner's proforma present rate utility receipts tax of \$19,727 was grossed up to include an additional \$3,651 for Petitioner's approved Phase I increase.

	<u>Phase I</u>
Operation and Maintenance Expenses	\$1,037,369
Debt Service	331,905
Debt Service Reserve	68,055
Depreciation Expense	183,766
Utility Receipts Taxes	<u>23,378</u>
Total Revenue Requirement	\$1,644,473
Less: Interest income	2,342
Other Revenue	<u>24,299</u>

Net Revenue Requirements	<u>\$1,617,832</u>
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We therefore find that Petitioner's current rates and charges, which produce annual operating revenues of \$1,381,361 are insufficient to provide for Petitioner's *pro forma* annual revenue requirement and are therefore unreasonable and unlawful.

8. **Authorized Rates.** Petitioner's current rates and charges should be adjusted to reflect the base cost of service and then increased in Phase I so as to produce additional operating revenues of \$260,770 and total *pro forma* operating revenues of \$1,617,832, representing a 19.22% increase in rates and charges. Based on 5,000 gallons usage, a residential bill, including a fire protection surcharge of \$3.33, will increase to \$32.06 per month.

9. **Phased Rate Increases.** The Petitioner requested that the implementation of its proposed rate increase occur in two separate phases. As noted in Para. 8, Petitioner's Phase I increase is an overall increase of 19.22%. Given the Commission's decision with respect to Petitioner's proposed projects and issuance of long term debt, the Commission is creating a subdocket to determine whether additional funds are needed to address the issues presented in the subdocket, which would potentially constitute a Phase II increase in rates. See Para. 11, *infra*.

10. **Approval of Other OUCC Recommendations.** The OUCC presented several recommendations on future operating and reporting requirements. During cross-examination, Petitioner's witnesses accepted and agreed to meet the OUCC's recommended requirements, subject to Commission approval of an additional \$5,000 annual revenue requirement allowance. As discussed above, Petitioner has the ability to fund its leak analysis with its depreciation dollars approved by the Commission. Based on the evidence, the Commission finds that Petitioner shall comply with the following requirements proposed by OUCC Witnesses Harold L. Rees (Public's Exhibit No. 2, pp. 20-22) and Richard J. Corey (Public's Exhibit No. 1, pp. 10-11), as reasonable and prudent ways to keep the utility in good operating condition while also ensuring fair and reasonable rates for all customers:

- A. As a first step in reducing unaccounted-for water (which averaged approximately 29.9% during the test year, after adjusting for flushing) to a more reasonable level (ideally 15% or less), the Petitioner shall perform a leak analysis by December 31, 2009 and report the results to the Commission as a compliance filing under this Cause.

- B. The Petitioner shall prepare an inventory of its known valves and begin turning at least 50% of its valves at least once every year. The Petitioner shall report its progress to the Commission as a compliance filing under this Cause by December 31, 2009.
- C. The Petitioner shall form a Water Conservation Committee and develop a Water Conservation Action Plan to be filed with the Commission and a copy served on the OUCC by December 31, 2009.
- D. Although the OUCC noted some deficiencies in Petitioner's analysis (Public's Exhibit No. 2, pp. 13-17), Petitioner's Base Cost of Water Analysis and the resulting adjusted rate for high volume users (with usage that exceeds 100,000 gallons per month) represent a positive step in the direction of fully cost-based rates. To continue its progress toward a true cost-based rate structure, Petitioner shall include a full cost of service study (COSS) in its next general rate case to determine the full cost of providing service to each customer class, and shall design appropriate rates to recover its costs in a fair and reasonable manner.
- E. The Petitioner shall place all monies collected for its tank painting revenue requirement in a dedicated or restricted account, to be used only for tank maintenance and drawn on as needed for that purpose. However, in the event of future periods of financial distress, the Petitioner may use the restricted funds to meet its debt service requirements, if needed. In that case, the Petitioner shall promptly notify both the Commission and the OUCC that it has used funds from its tank painting reserve to make debt service payments.

11. **Establishment of Sub-Docket.** Based on the foregoing findings, the Commission recognizes that the Petitioner may need additional funds to perform maintenance and rehabilitation of its existing water treatment plant. As evidence concerning those costs is not a part of the record, specifically the costs of filter rehabilitation or replacement, building upgrades discussed in Mr. Wright's testimony, and costs to rebuild its high-service pumps, the Commission hereby establishes a sub-docket, as Cause No. 43477 S1, to receive evidence concerning those costs and any additional revenue requirement that may be necessary to fund those costs, including the authorization for issuing bonds. This subdocket shall also include any revised cost-estimates for completing the Yankeetown interconnection and to the extent Petitioner elects to finance the painting of its tank, the financing authority necessary to complete this maintenance project. Accordingly, a prehearing conference shall be scheduled for January 15, 2009 at 9:00 a.m. in Room 224, National City Center, 101 W. Washington St., Indianapolis, Indiana.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Petitioner is hereby authorized to increase its annual revenue from rates and charges by \$260,770 in Phase I so as to produce total annual operating revenue of \$1,617,832, representing approximately a 19.22% increase in its rates and charges with the exception

of Petitioner's last rate block, which results in an increase of approximately 83.26% for consumption over 100,000 gallons in a given month.

2. Petitioner shall comply with the requirements in Finding Paragraph 10 above.
3. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay the following itemized charges within twenty (20) days from the date of this Order to the Secretary of the Commission:

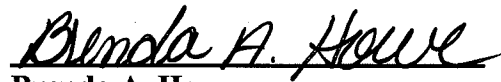
Commission Charges	\$ 3,106.71
OUCG Charges	\$16,862.08
Legal Advertising Charges	\$ 81.48
TOTAL	\$20,050.27

4. This Order shall be effective on and after the date of its approval.

GOLC, LANDIS, SERVER AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: DEC 10 2008

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**